

RUBEN MANUEL INIGUEZ ZANDIA,	)	Case No. 2:24-cv-05423-VBF-JC
	)	
Petitioner,	)	ORDER TO SHOW CAUSE WHY
	)	THE PETITION FOR WRIT OF
v.	)	HABEAS CORPUS AND THIS
	)	ACTION SHOULD NOT BE
FIDENCIO N. GUZMAN, Acting	)	DISMISSED
Warden,	)	
	)	
Respondent.	)	

On June 18, 2024, Petitioner Ruben Manuel Iniguez Zandia, a state prisoner proceeding *pro se*, constructively filed a Petition for Writ of Habeas Corpus by a Person in State Custody pursuant to 28 U.S.C. § 2254 (“Petition”) that was formally filed on June 24, 2024.<sup>1</sup> (Docket No. 1; Petition at 1, 8).<sup>2</sup> Although not a model of clarity, the Petition appears to challenge Petitioner’s 2005 conviction in Los Angeles County Superior Court, Case No. LA042497 (“2005 State Case”) on the

<sup>1</sup>See Roberts v. Marshall, 627 F.3d 768, 770 n.1 (9th Cir. 2010), cert. denied, 565 U.S. 897 (2011) (“When a prisoner gives prison authorities a habeas petition or other pleading to mail to court [pursuant to the mailbox rule], the court deems the petition constructively ‘filed’ on the date it is signed.”). Here, as Petitioner appears to have signed the Petition on June 18, 2024, and as that is the earliest date on which he could have provided it to prison authorities for mailing, the Court deems the Petition to have been constructively filed on such date.

<sup>2</sup>Citations to the Petition refer to the page numbers assigned by the Court's official Case Management/Electronic Case Filing (CM/ECF) system.

1 following grounds: (1) “This was a case of mistrial from the start, illegal, and very  
2 criminal. My attorney didn’t argue, I did.”; and (2) “I was rushed out of the L.A.  
3 County jail before I received an answer from the appeal I petitioned.” (Petition at  
4 1-2, 5).<sup>3</sup>

5 As explained below, it appears that the Petition is time-barred and wholly  
6 unexhausted and that Petitioner has otherwise failed to demonstrate his entitlement  
7 to relief. Accordingly, Petitioner is ORDERED TO SHOW CAUSE by not later  
8 than January 29, 2025, why the Petition and this action should not be dismissed on  
9 the foregoing basis.

## 10 **II. PROCEDURAL HISTORY<sup>4</sup>**

11 On August 26, 2005, in the 2005 State Case, a jury convicted Petitioner of  
12 one count of second degree murder and one count of attempted willful, deliberate  
13 and premeditated murder and found true allegations that Petitioner personally and  
14 intentionally discharged a firearm causing death and that the crimes were  
15 committed for the benefit of a criminal street gang.<sup>5</sup> See People v. Iniguez, 2007  
16 WL 1532763, at \*1 (Cal. Ct. App. May 29, 2007); People v. Iniguez, 2024 WL  
17 1083084, at \*1 (Cal. Ct. App. Mar. 5, 2024). After strike and prior serious felony  
18 allegations were proven true beyond a reasonable doubt, the trial court sentenced  
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20 <sup>3</sup>In light of its substance, the Court has construed the Petition to challenge Petitioner’s  
21 conviction in the 2005 State Case, but notes that the Petition includes correspondence between  
22 Petitioner and his counsel in connection with resentencing petitions in the 2005 State Case and in  
23 an apparently separate and unrelated state case – Los Angeles County Superior Court Case No.  
LA061115-01 (“2006 State Case”). (Petition at 9-13 (2005 State Case correspondence); Petition at  
24 14-24 (2006 State Case correspondence)).

25 <sup>4</sup>Unless otherwise indicated, the procedural history set forth is derived from public  
26 California state court records (available via <https://www.lacourt.org/> and <https://appellatecases.courtinfo.ca.gov/>) of which this Court takes judicial notice. See Fed. R. Evid. 201; Mir v. Little  
27 Co. of Mary Hosp., 844 F.2d 646, 649 (9th Cir. 1988) (court may take judicial notice of court  
records).

28 <sup>5</sup>The Petition asserts that Petitioner was instead convicted of involuntary manslaughter and  
battery. (Petition at 2).

1 Iniguez to a term of 80 years to life for the murder plus a consecutive term of 70  
2 years to life for the attempted murder. People v. Iniguez, 2007 WL 1532763, at \*1.

3 Petitioner thereafter appealed to the California Court of Appeal, Second  
4 Appellate District (“Court of Appeal”) in Case No. B186450, claiming  
5 insufficiency of the evidence and instructional, evidentiary and sentencing error.  
6 People v. Iniguez, 2007 WL 1532763, at \*1. On May 29, 2007, the Court of  
7 Appeal affirmed the judgment. Id.

8 On July 2, 2007, Petitioner filed a Petition for Review with the California  
9 Supreme Court in Case No. S153981.<sup>6</sup> On August 15, 2007, the California  
10 Supreme Court denied review. The record does not reflect and Petitioner does not  
11 assert that he sought further review in the United States Supreme Court.

12 On or about September 22, 2022, Petitioner filed a Petition for Resentencing  
13 pursuant to California Penal Code 1172.6 (former section 1172.75) in the 2005  
14 State Case. See People v. Iniguez, 2024 WL 1083084, at \*1. On June 1, 2023, the  
15 Superior Court denied such petition, ruling Petitioner was ineligible for relief as a  
16 matter of law because the jury had not been instructed on felony murder or the  
17 natural and probable consequences doctrine. See People v. Iniguez, 2024 WL  
18 1083084, at \*1. Petitioner thereafter appealed, and on March 5, 2024, in Case No.  
19 B331645, the Court of Appeal affirmed. Id. On April 5, 2024, Petitioner filed a  
20 Petition for Review with the California Supreme Court in Case No. S284199, and  
on May 15, 2024, such court denied review. (Petition at 11).

### 21 **III. DISCUSSION**

22 Rule 4 of the Rules Governing Section 2254 Cases in the United States  
23 District Courts allows a district court to dismiss a petition if it “plainly appears from  
24 the petition and any attached exhibits that the petitioner is not entitled to relief in  
25 the district court. . . .” Rule 4 of the Rules Governing Section 2254 Cases. Based  
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27 <sup>6</sup>The Petition appears incorrectly to reflect that Petitioner did not file a Petition for Review  
28 with the California Supreme Court. (Petition at 3).

1 upon the Petition, including its attachments, and for the reasons discussed below,  
2 the Court orders Petitioner to show cause why the Petition and this action should  
3 not be dismissed for untimeliness, failure to exhaust, and/or for failure to state a  
4 claim meriting federal habeas relief.

5 **A. Petitioner’s Challenges to His Conviction in the 2005 State Case**  
6 **Appear to Be Time-Barred**

7 The Petition, as indicated above, appears to assert two claims challenging  
8 Petitioner’s conviction in the 2005 State Case: (1) “This was a case of mistrial from  
9 the start, illegal, and very criminal. My attorney didn’t argue, I did.”; and (2) “I was  
10 rushed out of the L.A. County jail before I received an answer from the appeal I  
11 petitioned.” (Petition at 1-2, 5). As explained below, the Petition appears to be  
12 time-barred.

13 **1. Accrual of the Statute of Limitations**

14 Pursuant to the Antiterrorism and Effective Death Penalty Act (“AEDPA”),  
15 a one-year statute of limitations applies to a petition for a writ of habeas corpus by a  
16 person in state custody. Wall v. Kholi, 562 U.S. 545, 550 (2011); 28 U.S.C.  
17 § 2244(d)(1). The one-year limitations period runs from the latest of: (1) the date  
18 on which the judgment became final by the conclusion of direct review or the  
19 expiration of the time for seeking such review (28 U.S.C. § 2244(d)(1)(A)); (2) the  
20 date on which the impediment to filing an application created by State action in  
21 violation of the Constitution or laws of the United States is removed, if the  
22 applicant was prevented from filing by such State action (28 U.S.C.  
23 § 2244(d)(1)(B)); (3) the date on which the constitutional right asserted was  
24 initially recognized by the Supreme Court, if the right has been newly recognized  
25 by the Supreme Court and made retroactively applicable to cases on collateral  
26 review (28 U.S.C. § 2244(d)(1)(C)); or (4) the date on which the factual predicate  
27 of the claim or claims presented could have been discovered through the exercise of  
28 due diligence (28 U.S.C. § 2244(d)(1)(D)). Generally, as here, state inmates are  
required to file their federal habeas petitions “within one year of the date on which

1 his conviction becomes final on direct review, unless the petitioner qualifies for  
2 statutory or equitable tolling.” Curiel v. Miller, 830 F.3d 864, 868 (9th Cir. 2016)  
3 (en banc); 28 U.S.C. § 2244(d)(1)(A).

4 Here, the California Supreme Court denied Petitioner’s Petition for Review  
5 from the Court of Appeal’s decision affirming his conviction in the 2005 State Case  
6 on August 15, 2007, and as Petitioner did not file a Petition for Writ of Certiorari in  
7 the United States Supreme Court, his conviction became final 90 days later, on  
8 November 13, 2007, when the time to file such a petition expired. See Bowen v.  
9 Roe, 188 F.3d 1157, 1158-59 (9th Cir. 1999) (period of direct review in 28 U.S.C.  
10 § 2244(d)(1)(A) includes period within which petitioner can file petition for writ of  
11 certiorari in U.S. Supreme Court, whether or not petitioner actually files such  
12 petition). Thus, the one-year statute of limitations began to run on November 14,  
13 2007, and, absent tolling, expired on November 13, 2008. Accordingly, absent  
14 tolling, the Petition, constructively filed on June 18, 2024, was filed more than  
15 fifteen years too late. See Curiel, 830 F.3d at 868 (“AEDPA requires a state  
16 prisoner to file a federal habeas petition pursuant to 28 U.S.C. § 2254 within one  
17 year of the date on which his conviction becomes final on direct review, unless the  
18 petitioner qualifies for statutory or equitable tolling”); 28 U.S.C. § 2244(d)(1)(A).  
19 28 U.S.C. § 2244(d)(1)(A).

## 2. Statutory Tolling

20 Under 28 U.S.C. § 2244(d)(2), AEDPA’s limitations period is tolled while “a  
21 properly filed application for State post-conviction or other collateral review with  
22 respect to the pertinent judgment or claim is pending.” Allen v. Siebert, 552 U.S. 3,  
23 4 (2007) (per curiam) (quoting 28 U.S.C. § 2244(d)(2)). Petitioner “bears the  
24 burden of proving that the statute of limitations was tolled.” Banjo v. Ayers, 614  
25 F.3d 964, 967 (9th Cir. 2010), cert. denied, 564 U.S. 1019 (2011). The statute of  
26 limitations is tolled only while a petitioner is properly pursuing state  
27 post-conviction relief. See Carey v. Saffold, 536 U.S. 214, 219-20 (2002)  
28 (application “pending” as long as ordinary state collateral review process in

1 continuance – *i.e.*, until completion of that process; application remains “pending”  
2 until it has achieved final resolution through state's post-conviction procedures);  
3 Harris v. Carter, 515 F.3d 1051, 1053 n.3 (9th Cir.) (statute of limitations tolled for  
4 all of time during which state prisoner attempting, through proper use of state court  
5 procedures, to exhaust state court remedies with regard to particular post-conviction  
6 application) (citation omitted), cert. denied, 555 U.S. 967 (2008). The statute of  
7 limitations is not tolled between the time a final decision is issued on direct state  
8 appeal and the time the first state collateral challenge is filed because there is no  
9 case pending during that interval. Porter v. Ollison, 620 F.3d 952, 958 (9th Cir.  
10 2010) (citations omitted).

11 Here, as noted above, Petitioner’s conviction became final on November 13,  
12 2007, and the statute of limitations expired on November 13, 2008. As no properly  
13 filed application for State post-conviction or other collateral review with respect to  
14 judgment in the 2005 State Case was filed during that time frame, Petitioner is not  
15 entitled to statutory tolling. Even assuming, for purposes of analysis, that  
16 Petitioner’s Petition for Resentencing filed in 2022 would otherwise have been an  
17 appropriate predicate for statutory tolling, it cannot support statutory tolling  
18 because it was filed after the statute of limitations had already expired. See  
19 Ferguson v. Palmateer, 321 F.3d 820, 823 (9th Cir.) (Section 2244(d) does not  
20 permit the reinitiation of the limitations period that ended before a state petition is  
21 filed), cert. denied, 540 U.S. 924 (2003).

22 Accordingly, Petitioner is not entitled to any statutory tolling under Section  
23 2244(d)(2).

### 24 **3. Equitable Tolling**

25 The statute of limitations period may be subject to equitable tolling if a  
26 petitioner can demonstrate both that: (1) he has been pursuing his rights diligently;  
27 and (2) some extraordinary circumstance stood in his way. Holland v. Florida, 560  
28 U.S. 631, 649 (2010). It is a petitioner’s burden to demonstrate that he is entitled to  
equitable tolling. Miranda v. Castro, 292 F.3d 1063, 1065 (9th Cir. 2002), cert.

1 denied, 537 U.S. 1003 (2002). It does not appear from the Petition or the current  
2 record that Petitioner has met his burden to demonstrate that he is entitled to any  
3 equitable tolling, let alone tolling sufficient to render the Petition timely.

#### 4 **4. Actual Innocence**

5 In rare and extraordinary cases, a plea of actual innocence can serve as a  
6 gateway through which a petitioner may pass to overcome the statute of limitations  
7 otherwise applicable to federal habeas petitions. McQuiggin v. Perkins, 569 U.S.  
8 383, 386 (2013); see also Lee v. Lampert, 653 F.3d 929, 934-37 (9th Cir. 2011) (en  
9 banc). “[A] petitioner does not meet the threshold requirement unless he [or she]  
10 persuades the district court that, in light of the new evidence, no juror, acting  
11 reasonably, would have voted to find him [or her] guilty beyond a reasonable  
12 doubt.” Perkins, 569 U.S. at 386 (quoting Schlup v. Delo, 513 U.S. 298, 329  
13 (1995)).

14 In order to make a credible claim of actual innocence, a petitioner must  
15 “support his allegations of constitutional error with new reliable evidence – whether  
16 it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical  
17 physical evidence – that was not presented at trial.” Schlup, 513 U.S. at 324. The  
18 habeas court then “consider[s] all the evidence, old and new, incriminating and  
19 exculpatory, admissible at trial or not.” Lee, 653 F.3d at 938 (internal quotations  
20 omitted; citing House v. Bell, 547 U.S. 518, 538 (2006)). On this record, the court  
21 “must make a ‘probabilistic determination about what reasonable, properly  
22 instructed jurors would do.’” House, 547 U.S. at 538 (quoting Schlup, 513 U.S. at  
23 329). Unexplained or unjustified delay in presenting new evidence is a “factor in  
24 determining whether actual innocence has been reliably shown.” Perkins, 569 U.S.  
25 at 387, 399; Schlup, 513 U.S. at 332 (“A court may consider how the timing of the  
26 submission and the likely credibility of a [petitioner’s] affiants bear on the probable  
27 reliability of . . . evidence [of actual innocence].”).

28 Here, Petitioner does not raise a claim of actual innocence and has failed to  
identify any such “newly discovered evidence,” let alone, provide new, reliable



1 evidence to cast doubt on his conviction so as to permit the Court to consider his  
2 apparently otherwise time-barred claims.

### 3 **5. Conclusion**

4 For the foregoing reasons, it appears that Petitioner's challenges to his  
5 conviction in the 2005 State Case are time-barred.

#### 6 **B. The Petition Appears to Be Unexhausted**

7 Aside from being time-barred, it appears that dismissal of the Petition and  
8 this action would be appropriate because, as explained below, Petitioner's claims  
9 appear to be unexhausted.

10 A habeas petitioner "must exhaust available state remedies before presenting  
11 his claim to a federal habeas court." Davila v. Davis, 582 U.S. 521, 527 (2017);  
12 28 U.S.C. §§ 2254(b) and (c). "A petitioner satisfies the exhaustion requirement by  
13 'fully and fairly presenting each claim to the highest state court.'" Greenway v.  
14 Schriro, 653 F.3d 790, 801 (9th Cir. 2011) (citation omitted).

15 Here, based on the Court of Appeal decisions corresponding to the Petitions  
16 for Review Petitioner filed with the California Supreme Court, it does not appear  
17 that Petitioner has presented either of his current claims for relief to the California  
18 Supreme Court. See People v. Iniguez, 2007 WL 1532763; People v. Iniguez, 2024  
19 WL 1083084.

20 Accordingly, dismissal of the Petition and this action would also be  
21 appropriate based on Petitioner's failure to exhaust his current claims.

#### 22 **C. In Any Event, Petitioner Fails to Demonstrate His Entitlement to Relief on the Claims in the Petition**

23 Even if Petitioner's claims were not time-barred and unexhausted, Petitioner  
24 otherwise fails to demonstrate his entitlement to federal habeas relief. Petitioner's  
25 claims are conclusory and vague, and are unsupported by a statement of specific  
26 facts. The claims do not meet even the most basic pleading requirements for federal  
27 habeas petitions, and thus are insufficient to justify federal habeas relief. See Rules  
28 Governing Section 2254 Cases, Rule 2(c)(1)-(2) (federal habeas petitions must



“specify all the grounds for relief,” and “state the facts supporting each ground”); see also Mayle v. Felix, 545 U.S. 644, 655 (2005) (federal habeas petitions are “expected to state facts that point to a real possibility of constitutional error”) (citations omitted); Jones v. Gomez, 66 F.3d 199, 204-05 (9th Cir. 1995) (conclusory allegations unsupported by a statement of specific facts do not warrant habeas relief), cert. denied, 517 U.S. 1143 (1996); Hendricks v. Vasquez, 908 F.2d 490, 491 (9th Cir. 1990) (allegations that are vague, conclusory, or unsupported by a statement of specific facts, are insufficient to warrant relief and are subject to summary dismissal).

#### IV. CONCLUSION

In light of the foregoing, Petitioner is ORDERED TO SHOW CAUSE by not later than **January 29, 2025**, why this action should not be dismissed for untimeliness, failure to exhaust, and/or failure to raise a claim meriting federal habeas relief.

Alternatively, Petitioner may request a voluntary dismissal of this action pursuant to Federal Rule of Civil Procedure 41(a) by the foregoing deadline. If he elects to proceed in that manner, he may sign and return the attached Notice of Dismissal. However, Petitioner is advised that any dismissed claims may later be subject to dismissal with prejudice as time-barred under 28 U.S.C. § 2244(d)(1).

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**Petitioner is further cautioned that the failure timely to respond to this Order to Show Cause and/or to show good cause may result in the dismissal of the Petition and this action based upon Petitioner's claims being time-barred, unexhausted, and/or without merit, Petitioner's failure to comply with this Order, and/or Petitioner's failure to prosecute.**

IT IS SO ORDERED.<sup>7</sup>

DATED: January 9, 2025

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/s/

Honorable Jacqueline Chooljian  
UNITED STATES MAGISTRATE JUDGE

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<sup>7</sup>The Court's determinations and order herein constitute non-dispositive rulings on pretrial matters. To the extent a party disagrees with such non-dispositive rulings, such party may file a motion for review by the assigned District Judge within fourteen (14) days. See Local Rule 72-2.1. To the extent a party believes the rulings to be dispositive, rather than non-dispositive, such party has the right to object to this Court's determination that the rulings are non-dispositive within fourteen (14) days. A party will be foreclosed from challenging the rulings herein if such party does not seek review thereof, or object thereto.